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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
ATLAS STEAMSHIP COMPANY)
NORTHWEST (SS TUNGLEE),)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 725
FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of a \$250 civil penalty for an alleged smoke-emission violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 3rd day of April, 1975, at Seattle, Washington; and appellant, Atlas Steamship Company Northwest (SS TUNGLEE), appearing through its secretary-dispatcher, Nayna Peterson and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being Chris Smith, presiding officer and Walt Woodward and the Board having considered the sworn testimony, exhibits,

1 records and files herein and having entered on the 4th day of April, 1975,
2 its proposed Findings of Fact, Conclusions of Law and Order, and the
3 Board having served said proposed Findings, Conclusions and Order upon
4 all parties herein by certified mail, return receipt requested and
5 twenty days having elapsed from said service; and

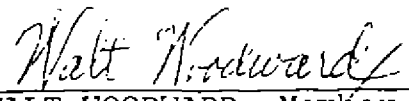
6 The Board having received no exceptions to said proposed Findings,
7 Conclusions and Order; and the Board being fully advised in the premises;
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
10 Findings of Fact, Conclusions of Law and Order, dated the 4th day of
11 April, 1975, and incorporated by this reference herein and attached hereto
12 as Exhibit A, are adopted and hereby entered as the Board's Final Findings
13 of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 29th day of April, 1975.

15 POLLUTION CONTROL HEARINGS BOARD

16 
17 _____
18 CHRIS SMITH, Chairman

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20 _____
21 WALT WOODWARD, Member

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

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Ms. Nayna Peterson
-Secretary-Dispatcher
Atlas Steamship Company Northwest
1729 Exchange Building
Seattle, Washington 98504

Mr. Keith D. McGoffin
Burkey, Marsico, Roval, McGoffin,
Turner and Mason
P. O. Box 5217
Tacoma, Washington 98405

LARENE BARLIN
POLLUTION CONTROL HEARINGS BOARD

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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
ATLAS STEAMSHIP COMPANY)
NORTHWEST (SS TUNGLEE))
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 725

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$250 civil penalty for an alleged smoke-emission violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Chris Smith, presiding officer, and Walt Woodward) as a formal hearing in the Seattle facility of the State Board of Industrial Insurance Appeals on April 3, 1975.

Appellant was represented by Nayna Peterson, secretary-dispatcher of the Seattle office of Atlas Steamship Company Northwest. Respondent appeared through its attorney, Keith D. McGoffin. Eugene E. Barker,

EXHIBIT A

1 Olympia court reporter, recorded the proceeding.

2 Witnesses were sworn and testified. Exhibits were admitted.

3 From testimony heard and exhibits examined, the Pollution Control
4 Hearings Board makes these

5 FINDINGS OF FACT

6 I.

7 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd
8 Ex. Sess., has filed with this Board a certified copy of its Regulation
9 I containing respondent's regulations and amendments thereto.

10 II.

11 Section 9.03(a)(1) of respondent's Regulation I makes it unlawful
12 to cause or allow the emission for more than three minutes in any one
13 hour of an air contaminant darker in shade than No. 2 on the Ringelmann
14 Chart. Section 3.29 authorizes a civil penalty of not more than \$250
15 for any violation of Regulation I.

16 III.

17 On July 23, 1974, respondent's senior air pollution inspector for
18 King County delivered to appellant's Seattle office a copy of
19 Regulation I and 50 placards summarizing respondent's visual smoke
20 emission rules in Regulation I.

21 IV.

22 On September 19, 1974, at Terminal 86, Seattle, King County, a
23 vessel for which appellant is the Seattle agent, the SS TUNGLEE, emitted
24 from its boiler stack for a period of at least seven consecutive minutes
25 black smoke in excess of No. 3 on the Ringelmann Chart.

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27 FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

V.

This emission was observed by an inspector on respondent's staff. In connection therewith, Notice of Violation No. 10891, citing Section 9.03 of respondent's Regulation I, and Notice of Civil Penalty No. 1742, in the sum of \$250, were issued by respondent. Notice of Civil Penalty No. 1742 is the subject of this appeal.

VI.

Appellant contends, but did not prove, that the emission was caused by the warming up of the ship's boilers prior to sailing. The SS TUNGLEE did not depart from Terminal 86 until 37 hours after the observed emission.

VII.

Any Conclusion of Law hereinafter recited which is deemed to be a Finding of Fact is adopted herewith as same.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

The SS TUNGLEE was in violation of respondent's Regulation I as cited in Notice of Violation No. 10891.

II.

Notice of Civil Penalty No. 1742 is reasonable.

III.

Any Finding of Fact recited herein which is deemed to be a Conclusion of Law is adopted herewith as same.

Therefore, the Pollution Control Hearings Board issues this
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

ORDER

The appeal is denied and Notice of Civil Penalty No. 1742 is sustained in the amount of \$250.

DONE at Lacey, Washington this 4th day of April, 1975.

POLLUTION CONTROL HEARINGS BOARD


CHRIS SMITH, Chairman


WALT WOODWARD, Member

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER